



Procedure) Regulations, 2007 (for short, 'the Regulations') was left open.

For the sake of convenience, we may notice the facts of the appeal arising out of SLP(C) Nos.23028-23029/2008.

On an application made by the respondent, Northern Regional Committee of the National Council for Teacher Education (for short, 'the Council') vide its order dated 18.9.2007 granted recognition/permission to the respondent for starting B.Ed. course of one year's duration with an annual intake of 100 students.

On 4.2.2008, the respondent submitted an application for sanction of additional intake of 100 students and then filed writ petition with the following prayers:

"(a) Pass an appropriate Writ of Certiorari or any other appropriate writ, order or direction and quash clause (3) of regulation 8 of the Regulations, 2007 as unconstitutional being arbitrary and discriminatory and violative of

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Article 14 and 19 of the Constitution of India and as a consequence thereof issue a writ of mandamus and direct the Respondent to accept, consider and process the application of the Petitioner in accordance with law for additional intake of 100 seats for B.Ed. course for academic session 2008-2009; and

(b) In the alternative, pass an appropriate Writ, order or direction and declare that the application of the Petitioner dated 04.02.2008 shall be governed and considered by amended regulation dated 20.07.2006 by which three year condition imposed by clause (3) of regulation 8 of the Regulations, 2005 was relaxed and as a consequence thereof issue a writ of mandamus and direct the Respondent to accept, consider and process the application of the Petitioner in terms thereof in accordance with law for additional intake of 100 seats for B.Ed. course for academic session 2008-2009."

The petitioner contested the writ petition and pleaded that Regulation 8(3) of the Regulations was not ultra vires the provisions of the Constitution or the Act and the respondent was not entitled to additional intake of 100 students because it did not satisfy the prescribed conditions of eligibility.

During the pendency of the writ petition, the respondent filed C.M. No.2184 of 2008 for issue of a direction to the petitioner to process its application keeping in view the amendment made in Regulation 8. By an interim order dated 11.4.2008, the Division Bench of the High Court directed the petitioner to process the application of the respondent without prejudice to its rights and contentions. The relevant portions of that order are extracted below:

"Notice for 21st May, 2008

Learned counsel for the petitioner does not press prayer '(a)' made in the application. Prayer

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'(b)' in the application is in the following terms:

"(b) In the alternative, pass an appropriate Writ, order or direction and declare that the application of the Petitioner dated 04.02.2008 shall be governed and considered by amended regulation dated 20.07.2006 by which three year condition imposed by clause (3) of regulation 8 of the Regulations, 2005 was relaxed and as a consequence thereof issue a writ of mandamus and direct the respondent to accept, consider and process the application of the petitioner in terms thereof in accordance with law for additional intake of 100 seats for B.Ed. course for academic session 2008-2009."

We have heard learned counsel for the petitioner in support of the petition as also learned counsel for the respondent in opposition. We are of the view that pending hearing of the matter, let the respondent process the application of the petitioner seeking permission of B.Ed. for additional intake of 100 seats. The forwarding letter for the application is annexed as annexure P-7. The petitioner would submit the original application. The respondent would process the same without prejudice to its rights and contentions and subject to further directions to be given in the writ petition. The respondent may carry out requisite inspections to assess and determine whether the petitioner meets the requirement for the sanction of additional intake of seats. Let this exercise be completed before the next date."

In compliance of the aforesaid order, the Northern Regional Committee of the Council considered the application of the respondent and declared that the same was deficient. To this effect, communication dated 13.5.2008 was sent to the Principal of the respondent.

Thereafter, the High Court passed order dated 21.5.2008, which reads as under:

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"Learned counsel for the respondent Mr. V.K. Rao submits that a communication has been sent by the respondent to the petitioner. He states that although in the said communication the eligibility criteria of having three academic sessions has been mentioned as also the requirement of having accreditation with NAAC, the respondent for the purpose of processing and approval of this application would not insist on these two conditions and accreditation from NAAC can be obtained in time i.e. before 01.04.2010 (Refer page 61 of the paper book).

Learned counsel for the respondent submits that there are requirements regarding building regulations for the specified number of seats which has to be complied with. He assures that a physical inspection would be carried out within a week. Petitioner would be at liberty at that point of time to satisfy the respondents regarding its compliance with the building regulations and/or give any undertaking with regard to the additional coverage, deletions or alterations as may be required within a time

bound framework."

The writ petition was finally disposed of on 29.5.2008 in the following terms:

"Pursuant to the order passed on 21st May, 2008, we are informed that an inspection has been carried out and an inspection report has been received by the Council which is in a sealed cover Mr. Sanjay Sarawat, learned Counsel for Petitioner, submits that the inspection was carried out in the presence of petitioner and they were satisfied with the inspection proceedings.

Mr. V.K. Rao, learned Counsel for respondent says that the Regional Committee which was to consider the report has been dissolved by the chairperson.

Let the inspection report be processed by the competent authority as, in our view, there can be no vacuum simply because the Chairperson has dissolved the concerned committee. If necessary, the Chairperson can take decision itself. Matter be taken up expeditiously.

The question regarding challenge to the

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vires of Regulation 8(3) and 8(4) of National Council for Teacher Education Regulations is left open."

Review Petition No.253 of 2008 filed by the petitioner was dismissed by the High Court on 25.7.2008.

Shri Raju Ramachandran, learned senior counsel appearing for the petitioner, on the basis of instructions given to him, made a statement that in compliance of the directions given by the High Court, the applications made by the respondents for grant of additional intake were processed and by different orders passed in 2008 they have been granted permission for additional intake. Shri Ramchandran then submitted that this Court may not disturb the impugned orders because the students may have been admitted against the additional seats and they must have prosecuted or are prosecuting their studies, but make it clear that the action taken by the petitioner in compliance of the orders under challenge shall not influence adjudication of the matters, which are pending before the High Court. According to the learned senior counsel, the letters patent appeals filed by the petitioner against the orders of the learned Single Judges are pending adjudication by the Division Bench.

In view of the statement made by the learned senior counsel appearing for the petitioner, the special leave petitions are disposed of in the following terms:

- 1) The permission granted by the petitioner to the respondents for additional intake in B.Ed./D.Ed. Courses in compliance of the interim orders passed

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by the High Court shall remain operative and the respondents shall be entitled to admit students against the originally sanctioned seats as well as additional intake in B.Ed./D.Ed. courses. The

students so admitted shall be entitled to take examination subject to their fulfilling the prescribed conditions.

- 2) The directions contained in the impugned orders and this order shall not influence adjudication of the letters patent appeals pending before the High Court, which shall be decided in accordance with law.
- 3) It will be open to the High Court to examine the vires of clauses 3 and 4 of Regulation 8 of the National Council for Teacher Education (Recognition, Norms and Procedure) Regulations, 2007 and decide the same.

(A.D. Sharma)  
Court Master

(Phoolan Wati Arora)  
Court Master